

**Supplemental Letter of Findings: 01-20182354  
Individual Income Tax  
For the Tax Year 2015**

**NOTICE:** IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Supplemental Letter of Findings.

**HOLDING**

Individual was not entitled to claim the Child Tax Credit on his 2015 Indiana individual income tax return because he failed to show that the claimed dependents were qualifying children.

**ISSUE**

**I. Individual Income Tax–Child Tax Credit.**

**Authority:** I.R.C. § 24; IC § 6-8.1-5-1; IC § 6-3-2-2; IC § 6-3-2-1; IC § 6-3-1-3.5; *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012).

Taxpayer protests the imposition of Indiana individual income tax for tax year 2015.

**STATEMENT OF FACTS**

Taxpayer filed his 2015 Indiana individual income tax return on March 14, 2016. On his return, Taxpayer claimed a refund due of approximately \$111. That refund was issued to Taxpayer. In May of 2018, based on information from the Internal Revenue Service (IRS), the Indiana Department of Revenue ("Department") adjusted Taxpayer's 2015 return which resulted in an assessment of additional tax due. The Department reduced Taxpayer's Child Tax Credits by \$3,000, which corresponds to the number of dependents Taxpayer claimed on his federal and state returns.

The Department issued Taxpayer a proposed assessment seeking repayment of the erroneously issued refund, plus penalty and interest. Taxpayer protested the assessment and waived his right to a hearing. Taxpayer was contacted twice via mail requesting additional documentation; however, this documentation was not received by the Department by the deadline provided. Letter of Findings 01-20181698, 20190130 Ind. Reg. 045790018NRA (November 19, 2018) was issued denying Taxpayer's protest based upon lack of supporting documentation. Subsequent to the issuance of the Letter of Findings, the Department received Taxpayer's additional documentation. The Department granted Taxpayer a rehearing to address the additional documentation and this Supplemental Letter of Findings results. Additional facts will be provided below as necessary.

**I. Individual Income Tax - Child Tax Credit.**

**DISCUSSION**

As a threshold issue, all tax assessments are *prima facie* evidence that the Department's claim for unpaid tax is valid; the taxpayer bears the burden of proving that any assessment is incorrect. IC § 6-8.1-5-1(c); *Indiana Dep't. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2011); *Lafayette Square Amoco, Inc. v. Indiana Dep't. of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007). Consequently, the taxpayer is required to provide documentation explaining and supporting its challenge that the Department's position is wrong. Poorly developed and non-cogent arguments are subject to waiver. *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2011).

Indiana imposes an adjusted gross income tax on all residents. IC § 6-3-2-1(a). A taxpayer's Indiana income is

determined by starting with the federal adjusted gross income and making certain adjustments thereafter. IC § 6-3-1-3.5(a). IC § 6-3-2-2(a) specifically outlines what is income derived from Indiana sources and subject to Indiana income tax. For Indiana income tax purposes, the presumption is that taxpayers properly and correctly file their federal income tax returns as required pursuant to the Internal Revenue Code. Thus, to efficiently and effectively compute what is considered the taxpayer's Indiana income tax, the Indiana statute refers to the Internal Revenue Code.

In May of 2018 the Department adjusted Taxpayer's 2015 Indiana income tax return based on information it received from the IRS. The Department then issued Taxpayer a proposed assessment as a result of the adjustment. Taxpayer protested the assessment and provided copies of his 2015 Indiana and Federal individual income tax returns. In his protest letter, Taxpayer stated that he believed that the Department made an error in calculating the amount of tax due for 2015.

The Department received Taxpayer's Federal Record of Account for tax year 2015 on November 19, 2018. Although the number of exemptions claimed by Taxpayer matches what was reported on his Federal Record of Account, Taxpayer has not demonstrated that he is entitled to the Child Tax Credit under I.R.C. § 24. A taxpayer may claim a credit for each "qualifying child" claimed on his return. I.R.C. § 24(c)(1) states, "The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c)) **who has not attained age 17.**" **(Emphasis added).**

Taxpayer did not claim the Child Tax Credit on his 2015 Federal income tax return and did not indicate on line 6(c)(4) of his 1040A form that his two dependents were under the age of 17. However, Taxpayer included the Child Tax Credit on his Indiana return. Because Taxpayer has not indicated that the claimed dependents were under the age of 17, they were therefore not "qualifying children" and Taxpayer was not entitled to claim the credits. The Department was correct in adjusting Taxpayer's 2015 Indiana income tax return to add back the credits that were improperly claimed, and was correct in issuing Taxpayer the proposed assessment seeking repayment of the erroneously issued refund. Taxpayer has failed to meet his burden under IC § 6-8.1-5-1(c) of demonstrating that the proposed assessment was wrong. Taxpayer's protest is therefore denied.

#### FINDING

Taxpayer's protest is respectfully denied.

February 13 2019.

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